

**GOVERNMENT OF PUERTO RICO
PUBLIC SERVICE REGULATORY BOARD
PUERTO RICO ENERGY BUREAU**

IN RE: REVIEW OF THE PUERTO RICO ELECTRIC POWER AUTHORITY'S 10-YEAR INFRASTRUCTURE PLAN – DECEMBER 2020

CASE NO.: NEPR-MI-2021-0002

SUBJECT: Resolution and Order on *Motion to Submit Scope of Work in Compliance with Resolution and Order dated November 8, 2023*, filed by Genera on March 28, 2024 and *Memorandum of Law in Support of Confidential Treatment of Scope of Work Submitted on March 28, 2024, in Compliance with Resolution and Order dated November 8, 2023*, filed by Genera on April 8, 2024.

RESOLUTION AND ORDER

I. Introduction

On March 26, 2021, the Energy Bureau of the Puerto Rico Public Service Regulatory Board ("Energy Bureau") issued a Resolution and Order ("March 26 Resolution"), in which it ordered the Puerto Rico Electric Power Authority ("PREPA") to submit each specific capital investment project for approval to avoid potential noncompliance with the Approved Integrated Resource Plan ("IRP") and Modified Action Plan.¹ To streamline the process, the Energy Bureau requested PREPA to submit the specific projects to the Energy Bureau at least thirty (30) calendar days before their submittal to the Puerto Rico Central Office for Recovery, Reconstruction and Resiliency ("COR3") and the Federal Emergency Management Agency ("FEMA"), and any other federal agency,² and to continue reporting to the Energy Bureau and FEMA, within the next five (5) years, the progress of all ongoing efforts related to the final approval of the submitted projects not yet approved by the Energy Bureau.

On January 24, 2023, GENERA PR LLC ("GENERA"), PREPA and the Puerto Rico Public-Private Partnership Authority ("P3A") executed the Puerto Rico Thermal Generation Facilities Operation and Maintenance Agreement ("LGA OMA"). According to the LGA OMA, GENERA is the sole operator and administrator of the Legacy Generation Assets³, and the exclusive entity authorized to represent PREPA before the Energy Bureau about any matter related to the performance of the Operation and Maintenance ("O&M") services provided by GENERA under the LGA OMA. Further, GENERA is the sole entity responsible for procuring and administering federal funds for projects to repair or replace the LGA⁴.

On October 27, 2023, GENERA filed a document titled *Amended Motion for Leave to Submit Amendment to Project and 406 BESSs Initial Scope of Work* ("October 27 Motion").⁵ Through the October 27 Motion, GENERA requested the Energy Bureau to grant GENERA leave to present to COR3 and FEMA, the Project Amendment, and the Section 406 Initial SOW, and to

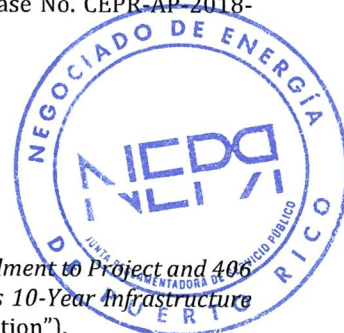
¹ Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *In re: Review of the Integrated Resource Plan of the Puerto Rico Electric Power Authority*, Case No. CEPR-AP-2018-0001, August 24, 2020 ("IRP Order").

² March 26 Resolution, pp. 18-19.

³ As defined in the LGA OMA.

⁴ LGA OMA, Section 5.8 (c).

⁵ The October 27 Motion amends the document titled *Motion for Leave to Submit Amendment to Project and 406 BESS Initial Scope of Work, In re: Review of the Puerto Rico Electric Power Authority's 10-Year Infrastructure Plan-December 2020*, case no. NEPR-MI-2021-0002, October 26, 2023 ("October 26 Motion").



continue with all activities required to complete all the essential documentation and analysis to complete the Battery Energy Storage System ("BESS") Project⁶. GENERA stated that a detailed Scope of Work ("SOW") will be submitted to FEMA per facility.⁷

On November 8, 2023, the Energy Bureau issued a Resolution and Order ("November 8 Resolution") conditionally approving the projects submitted by GENERA in the October 27 Motion, subject to the submittal by GENERA of the detailed SOWs.⁸

On December 7, 2023, LUMA submitted a *Motion to Submit Information on Status of Due Diligence to Allow Genera BESS Projects to Interconnect, in Compliance with Resolution and Order of November 30, 2023* ("December 7 Motion"). The December 7 Motion included as part of Exhibit 1 a response to an Energy Bureau information request, and a letter from Genera to LUMA dated October 23, 2023. The letter concerned Genera's request that LUMA provide information on the maximum reliable power injection capability available at each of seven (7) legacy generation station locations (Daguao, Yabucoa, Jobos, Aguirre, Costa Sur, Vega Baja, and Palo Seco) but notably excluding any reference to potential power injection capability at the San Juan or Cambalache locations, even though those locations are subsequently identified as locations for Genera BESS projects in the October 27 Motion.

After several incidental procedures, on February 1, 2024, the Energy Bureau issued a Resolution and Order ("February 1 Resolution") approving the projects submitted by GENERA through the October 27 Motion and ordered GENERA to: (i) submit to the Energy Bureau monthly reports on the progress of interconnection studies to be undertaken by LUMA⁹ and **the development status for the progress of the detailed SOWs and the BESS RFP's**; (ii) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects, which shall have the costs obligated for each individual site, **within ten (10) days of receipt of those approvals**; (iii) inform the Energy Bureau on the actual contracted cost to construct each individual site of the projects and (iv) inform the Energy Bureau once each project is completed (should construction is completed at different dates).

On March 28, 2024, GENERA filed before the Energy Bureau a document titled *Motion to Submit Scope of Work in Compliance with Resolution and Order dated November 8, 2023* ("March 28 Motion"). As Exhibit A to the March 28 Motion, GENERA filed as confidential information Project #164988 titled *Island Wide Generation Fleet Project for Vega Baja, Arecibo, and Salinas*, comprising 274 MW of the total of 430 MW of BESS resource originally included in the October 27 Motion¹⁰

On April 8, 2024, GENERA filed before the Energy Bureau a document titled *Memorandum of Law in Support of Confidential Treatment of Scope of Work Submitted on March 28, 2024, in Compliance with Resolution and Order dated November 8, 2023* ("April 8 Motion").

II. Evaluation and Analysis.

Through the March 28 Motion, GENERA submitted as Exhibit A, detailed SOWs which GENERA proposes to submit to COR3 and FEMA, for their respective approval. The document is a 428¹¹ Version 0 for Vega Baja site, Cambalache (Arecibo) site and Aguirre (Salinas) site of the projects¹² previously approved by the Energy Bureau on the February 1

⁶ See October 27 Motion, p. 9

⁷ *Id.*, Exhibit B, Section IV.

⁸ See November 8 Resolution, p.2.

⁹ LUMA Energy, LLC and LUMA Energy ServCo, LLC (jointly referred as "LUMA")

¹⁰ Genera, March 28 Motion, Exhibit A, Figure 1.

¹¹ Refers to the Section 428 of the "Stafford Act for the Public Assistance Alternative Procedures".

¹² See FEMA Project #673691 (Equipment and Material).



Resolution. Exhibit A presents detailed works to be performed within each site as described under each category shown below:

- 1. Permitting
- 2. Pre-Demolition activities
- 3. Demolition works
 - a. Mechanical
 - b. Structural
 - c. Electrical
- 4. Post-demolition works
- 5. Material disposals
- 6. Construction
 - a. Utilities
 - b. Structural
 - c. Mechanical
 - d. Electrical¹³
 - e. Civil
- 7. Construction -Testing and Commissioning

Table 1 below describes the amount of BESS capacity and the total cost estimate for each project site:

Table 1

Site	BESS capacity to be installed	Total Cost Estimate ¹⁴
Vega Baja	52 MW (4-hour duration)	\$82,724,000.00
Cambalache	80 MW (4-hour duration)	\$112,416,000.00
Aguirre	142 MW (4-hour duration)	\$195,749,000.00

Through the April 8 Motion, GENERA requested confidential treatment of the entire document marked as Exhibit A- Project #164988. GENERA argued the document is replete with comprehensive operational details, technical specifications, and strategic planning essential for fortifying Puerto Rico's electric power infrastructure against potential disaster events or operational contingencies. Also, it indicated that the SOW outlines a plan for leveraging existing Points of Interconnection at PREPA's generation facilities to install utility-scale batteries. According to GENERA the document includes sensitive information regarding planned capacities, locations, methodologies for grid integration, and detailed execution plans for the BESS project-including demolition and construction tasks- and highlights the critical nature of this information. GENERA alleges that disclosure of such details could potentially be misused, increasing the vulnerability of critical energy assets to attacks or sabotage and thus posing risks to national and economic security.¹⁵

GENERA requested the Energy Bureau to grant confidential designation and treatment to Exhibit A as described on the Table 2 below.



¹³ Includes the BESS to be installed at each site.

¹⁴ Total Cost Estimate is for the total project and includes the Estimated Cost for the BESS units and their installation previously approved by the Energy Bureau on the February 1 Motion.

¹⁵ April 8 Motion, pp. 6-7.

Table 2

Document Name and File Date	Pages in which Confidential Information is Found, if applicable	Summary of Legal Basis for Confidential Designation, if applicable	Summary of why each claim or designation conforms to the applicable legal basis for confidentiality
Exhibit A-Project #1649888	Entire Document.	Critical Energy Infrastructure Information under Section D92) of the Energy Bureau's Policy on Confidential Information and Critical Energy Infrastructure Information under 18 CFR § 388.113I(2).	The importance of keeping sensitive national security protocols confidential is to prevent risks to employees, compromise of procedures, exploitation, or bypass by individuals with harmful intentions, unnecessary fear among the public, chaos, and strain on security resources. By maintaining confidentiality, real threats can be effectively responded to, potential misuse can be prevented.

III. Energy Bureau Determination

The Energy Bureau **APPROVES** the **detailed projects SOWs** in **Attachment A** to this Resolution and Order and **DEEMS** GENERA in compliance with the November 8 Resolution. The Energy Bureau **REMINDS** GENERA that the 430 MW BESS projects were approved by the Energy Bureau in the February 1 Resolution with the cost related for the acquisition and installation of the units. GENERA **SHALL** present the approved detailed projects SOWs of the projects in **Attachment A** to FEMA and COR3 to finalize their approval process.

The Energy Bureau **REMINDS** GENERA to: (i) submit to the Energy Bureau monthly reports on the progress of interconnection studies to be undertaken by LUMA and the development status for the progress of the detailed SOWs and the BESS RFP's; (ii) submit to the Energy Bureau copy of the approval by COR3 and/or FEMA of the projects in **Attachment A**, which shall have the costs obligated for each individual site, **within ten (10) days of receipt of this approval**; (iii) inform the Energy Bureau on the actual contracted cost to construct each individual site of the projects in **Attachment A, within ten (10) days from the execution of the contract**; and (iv) inform the Energy Bureau once each project is completed (should construction is completed at different dates). The Energy Bureau further **DIRECTS** Genera to include in the monthly reports on interconnection study progress any updated information concerning the locations and MW quantities comprising the total of 430 MW of BESS projects, across the full set of nine (9) project locations originally included in the October 27 Motion and referenced in Figure 1 of the attached Exhibit A to the March 28 Motion.

The order regarding the submission of projects before the Energy Bureau at least thirty (30) calendar days before submitting such projects to FEMA and/or COR3 established in the March 26 Resolution remains unaltered.

The Energy Bureau **DENIES** GENERA's request for confidentiality as it pertains to the entire document of Exhibit A of the March 28 Motion. The referenced document does not include in its entirety information that the Energy Bureau considers as confidential information. The Energy Bureau **ORDERS** GENERA to, **within (5) business days**, file a redacted version for the public record of the mentioned **Exhibit A**. Such redacted version shall include a table detailing each item that requires confidentiality treatment and its justification. The Energy Bureau **REMINDS** Genera the public policy to have, as much as possible, a transparent process in which the public has access to the information.

The Energy Bureau **WARNS** GENERA that, noncompliance with any provision of this Resolution and Order, may result in the imposition of fines pursuant to Act 57-2014 and applicable Energy



Bureau's regulations and any other appropriate administrative sanctions, as deemed appropriate by the Energy Bureau.


Be notified and published.


Edison Avilés Deliz
Chairman


Lillian Mateo Santos
Associate Commissioner


Ferdinand A. Ramos Soegaard
Associate Commissioner

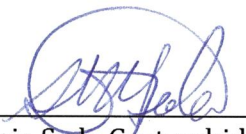

Sylvia B. Ugarte Araujo
Associate Commissioner


Antonio Torres Miranda
Associate Commissioner

CERTIFICATION

I certify that the majority of the members of the Puerto Rico Energy Bureau have agreed on April 23, 2024. I also certify that on April 23, 2024 a copy of this Resolution and Order was notified by electronic mail to lionel.santa@prepa.pr.gov; laura.rozas@us.dlapiper.com; margarita.mercado@us.dlapiper.com, Yahaira.delarosa@us.dlapiper.com; julian.angladapagan@us.dlapiper.com; alopez@sbgblaw.com; jfr@sbgblaw.com, legal@genera-pr.com, regulatory@genera-pr.com; and I have moved forward with filing the Resolution and Order issued by the Puerto Rico Energy Bureau.

I sign this in San Juan, Puerto Rico, today April 23, 2024.


Sonia Seda Gaztambide
Clerk



Attachment A
Projects Approved by the Energy Bureau

Site	BESS capacity to be installed	Total Cost Estimate¹⁶
Vega Baja	52 MW (4-hour duration)	\$82,724,000.00
Cambalache	80 MW (4-hour duration)	\$112,416,000.00
Aguirre	142 MW (4-hour duration)	\$195,749,000.00
Total	274 MW (4-hour duration)	\$390,889,000.00



¹⁶ Total Cost Estimate is for the total project with additional works and includes the Estimated Cost for the BESS units and their installation previously approved by the Energy Bureau on the February 1 Motion.